

**California Energy Commission
Public Benefits Program**

Staff Administrative Structure Proposal

Energy Commission Publication No. P400-99-013

The following staff paper recommends a specific proposal for the administrative structure of energy efficiency programs. It is supplemented by two previous staff papers, “Staff Discussion Paper Regarding Administrative Structure Issues” and “Staff Discussion Paper Proposing Specific Administrative Structure Options.” Both previous papers are also posted on the Energy Commission’s Public Benefits Program Web Site.

In support of the mandate contained in Assembly Bill 1105, the information contained in this paper will be discussed at the October 12, 1999, Efficiency Committee workshop, and used as one of the many factors that feed into staff recommendations on the proposed administrative structure for energy efficiency programs.

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STAFF ADMINISTRATIVE STRUCTURE PROPOSAL

October 6, 1999

I. INTRODUCTION

Assembly Bill 1105 requires the California Energy Commission to conduct a public process to prepare (1) a *transition plan report* regarding the “transfer of energy efficiency programs from the Public Utilities Commission to the State Energy Resource Conservation and Development Commission . . .” and (2) an *operational plan report* that “recommend(s) a post-transition administrative structure that is designed to achieve efficient and effective program administration.”

Initially, a determination regarding the nature of the post-transition administrative structure for the Public Benefits Energy Efficiency Program must be made before any meaningful transition process can be proposed. To determine this post transition administrative structure objectively, policymakers must take into account and resolve three interrelated topics, namely:

- (1) What are the primary **functions** and related program design framework(s) that the post transition administrative structure must implement?
- (2) What are the important public policy criteria and/or other evaluation **principles** that decision-makers should use when considering different administrative structure options?
- (3) What are the major administrative structure **options**, and how well would these options perform the program functions and satisfy the evaluation principles that must be met if the Energy Efficiency Program is to “achieve efficient and effective program administration”?

Staff has reviewed the various public comments and other inputs received from the first two Committee workshops and the October 1, 1999 Staff workshop. This material has been augmented with additional thoughts concerning the important functions, evaluation principles and options available for the administrative structure of the post transition Energy Efficiency Program. As a result, staff is proposing an administrative structure for consideration by the Committee and stakeholders.

The staff’s proposal in summary includes the California Energy Commission or a new Energy Efficiency Authority as the governance entity; multiple market program managers selected by competitive solicitation; a program manager for market assessment and evaluate; program implementers; and an independent review function. This organization is described in more detail at the end of this paper.

II. THREE KEY TOPICS IN SELECTING AN ADMINISTRATIVE STRUCTURE

A. What Are the Functions the Administrative Structure Must Carry Out?

In the first three workshops, a great deal of input was received concerning the important policy goals, public benefits and program design framework which must be implemented by the post transition administrative structure. Staff has reviewed this material and suggests that, to ensure that these matters are addressed, the administrative structure should consist of five key **functional categories**, namely:

- (1) Program Governance and Oversight Functions
- (2) Program Design and Management Functions
- (3) Project Delivery and Implementation Functions
- (4) Program Evaluation Functions, and
- (5) Independent Program Review Functions.

The staff recognizes that it may be difficult to draw “bright lines” between these five functional categories and that a single entity can perform more than one function (e.g., program management and implementation). However, the categories provide a useful taxonomy to ensure identification of all key functions that the Energy Efficiency Program administrative structure must perform. In addition, these functional categories are helpful when evaluating different administrative structure options, and will minimize any semantic confusion that might otherwise occur as the discussion and debate about administrative structure proceeds. The following material is intended to further expand upon and define the types of functions that are embodied in each of these five categories.

1. Program Governance and Oversight Functions

Activities that properly fit within the “governance and oversight” category include the following:

- establishing program policies and goals
- developing a strategic plan for program implementation
- making key resource allocation decisions
- obtaining feedback and evaluation on program performance
- determining future program directions and duration, and
- dispute resolution.

Among the most important of these governance and oversight activities are the following:

(a) *Broad Policy Setting, Budgeting and Oversight:* Pursuant to Legislative authorization, the governing entity must establish broad policy goals for the Energy Efficiency Program, set broad budgets, and maintain a process for periodically reviewing actual progress toward meeting goals. Among other things, the governance function may include development of policy rules concerning program implementation and oversight.

(b) *Selection and Oversight of Program Administrators and Market-Focused Portfolio Managers:* The governing entity must contract with program administrators and portfolio managers (see Item 2(d), below) through appropriate selection processes, and then must oversee the work of these administrators and managers to assure conformance with broad-based policy goals.

2. Program Design and Management Functions

There are a number of activities which fit within the “program design and management” category, including the following:

(a) *Assessing Markets:* An entity or entities must identify opportunities to make sustainable improvements in specific markets based on data collected on the structure of markets, trends in prices and market share, and data on customer preferences and purchasing patterns.

(b) *Designing Programs:* Appropriate intervention strategies and related program designs must be developed to:

- (1) achieve broad policy goals
- (2) solicit innovative ideas for program and market strategies from third parties
- (3) work with stakeholders to ensure high participation, ensure public comment is representative, and develop alliances and partnerships with private firms
- (4) track program implementation and evaluate progress in meeting goals
- (5) change program designs in response to either policy changes from the oversight body, and/or other relevant feedback from stakeholders and market actors

(c) *Targeting Market Areas:* Market areas must be selected for intervention, and appropriate program portfolios must be developed to meet policy goals for that target market.

(d) *Developing and Managing Market-Focused Portfolios:* Objectives must be developed for managing specific market-focused portfolios of programs and pilot projects in a way that will comprehensively and synergistically minimize risk while maximizing realization of policy goals. The portfolio manager(s) will be responsible for allocating portfolio budgets between the various programs and pilot projects, and will be accountable for the overall performance of the portfolio.¹

(e) *Selecting Entities To Actually Implement The Program(s):* When program design efforts have been completed, the program and portfolio managers will need to contract with entities to actually implement the programs in question.

¹ These managers will not manage the individual projects within the portfolios, but will be responsible for how these portfolios *as a whole* are performing. See Item II A3(b).

3. Project Implementation and Delivery Functions

(a) *Project Implementation:* A number of entities will be needed to implement the program(s) designed above. Among other things, these entities will deliver goods and services through subcontractors when necessary, implement market-tracking system, participate in regional alliances and trade groups, and provide “feedback” recommendations to program designers and policymakers as projects proceed.

(b) *Individual Project Management:* Project implementers will be responsible for managing their individual projects to ensure delivery of the objectives and incentives specified by the portfolio manager. (Note: This individual project-level management function is distinct from the much broader market-focused portfolio management function discussed in item 2(d), above).

4. Program Evaluation Functions

(a) *Evaluate Individual Programs and Project Performance:* An entity or entities will need to conduct periodic real time evaluations of individual programs and pilot projects to determine their potential or actual contribution to the overall goals of the Energy Efficiency Program. Results should be provided to both the Energy Efficiency Program governing entity and to the program/portfolio managers for use in determining the need for changes in program policies, program budgeting, program design or program testing.

(b) *Evaluate Market Performance At The Portfolio Level:* Assessments should be conducted regarding the overall market and the performance of the program portfolio, including the comprehensiveness, ability to manage risk and synergy of the portfolio, the degree of innovation present in the portfolio, and the contribution of the whole portfolio to achieving policy goals. Results should be provided to the Energy Efficiency Program governing entity and the program/portfolio managers for use in determining the need for changes in program policies, program budgeting, program design or program testing.

(c) *Ensure That Evaluations Are Integrated With Other Functions:* Effective “feedback loops” must be established and maintained to ensure that the results of key evaluations are actually considered and incorporated into various decision functions including program design, portfolio strategy and management, program implementation, solicitation of program ideas, and (where appropriate) into the market itself.

5. Independent Program Review Functions

(a) *Evaluate Overall Program Policy and Administrative Structure:* An entity will be needed to periodically conduct an independent review of the entire Energy Efficiency Program from both a policy and an administrative effectiveness perspective. This independent review will provide objective feedback to the Legislature and others regarding the ongoing need for the overall program and suggested ways for improving the efficiency and effectiveness of the administrative structure.

(b) *Fiscal Auditing:* The Energy Efficiency Program entails a significant amount of funds, so a periodic independent audit regarding the fiscal integrity of the entire program will be needed.

B. What Principles Should Be Used To Evaluate Administrative Structure Options?

As stated in the introductory portion of this discussion paper, objectivity can be achieved when determining the best option(s) for the post transition administrative structure by first taking into account key public policy criteria and/or other **evaluation principles** which the selected administrative structure should be able satisfy.

Based on input from the Committee and staff workshops, below are a number of evaluation principles that staff believes policymakers should take into account prior to deciding upon the proper post-transition administrative structure for the Energy Efficiency Program. Many of these evaluation principles would be applicable to any publicly funded program. Others are unique to the Energy Efficiency Program, either because of the particular goals and objectives that this program seeks to achieve, or because of the specific nature of the deregulated electricity industry. In addition, some of these evaluation principles may be “at odds” with each other (e.g., maximizing public input and accountability while at the same time minimizing bureaucratic “red tape”). Policymakers will have to establish the relative priorities in such circumstances. Nevertheless, all of these principles need to be considered if a sound administrative structure is to be established for the Energy Efficiency Program.

1. The Administrative Structure Should Be Able To Provide Smooth Program Continuity

It is important for the new administrative structure to provide smooth program continuity, and “do no harm to” nor create any unintended hiatus with ongoing Energy Efficiency Program efforts. Therefore, it is essential that the new administrative structure be (a) legal; (b) capable of adequate staffing; and (c) capable of starting up operations quickly.

2. The Administrative Structure Should Make Efficient Use Of Program Resources

The new administrative structure should be designed to use program resources efficiently. To do so, it should:

- (a) avoid unnecessary complexity in the overall design of the administrative structure,
- (b) make use of existing abilities and expertise wherever possible,
- (c) provide clear policy guidance from the beginning, while limiting “micro management” from the top-down,
- (d) streamline contracting and other administrative procedures to eliminate unnecessary “red tape”, and
- (e) ensure that the total financial costs of administering the program (including overhead costs and unintended tax consequences) are minimized.

3. The Administrative Structure Should Operate In A Fair and Effective Manner

The new administrative structure should be designed to ensure that the Energy Efficiency Program is operated in a fair and effective manner. Accordingly,

- (a) the structure should be designed to make funding awards based on merit, not politics,
- (b) the structure should avoid conflicts of interest,
- (c) the structure should be able to effectively use a portfolio of programs that can be flexibly modified when circumstances warrant, and
- (d) the structure should be designed to provide internal “checks and balances” within the Energy Efficiency Program.

4. The Administrative Structure Should Be Open and Accountable To The Public

The new administrative structure should be:

- (a) transparent and understandable to the public,
- (b) accessible and receptive to public input and concerns, and
- (c) subject to periodic independent review to ensure objective evaluation and public accountability.

5. The Administrative Structure Should Be Able To Provide Other Program Benefits

There are a number of other characteristics which are desirable for the Energy Efficiency Program administrative structure, including:

- (a) the ability to respond quickly and flexibly to changing market conditions,
- (b) the ability to “tailor” programs when needed (i.e., avoid a “one size fits all” approach), and
- (c) the ability to interact effectively with other programs and all other stakeholders (e.g., the Public Interest Energy Research [PIER] Program, the Low Income Energy Efficiency Program, local governments, utilities, etc.) to maximize program synergies and minimize unnecessary duplication.

C. What Are the Administrative Structure Options For the Energy Efficiency Program?

There are three distinct types of entities that could perform the various functions identified in Section II A. Specifically, there are:

- (1) public entities (e.g., new or existing state agencies, local governments, state-funded colleges and universities, etc.)
- (2) private entities (e.g., for profit and non profit corporations, small business, etc.), and

- (3) regulated monopolies (e.g., the utility distribution companies).

After considering the various evaluation principles proposed above, the Energy Commission staff has concluded that no single type of entity is appropriate for carrying out all five functional categories which must be provided by the administrative structure of the program. Instead, staff believes that the post transition administrative structure is likely to require some *combination* of entity types to carry out the program functions in a manner most consistent with the evaluation principles discussed earlier. The staff's view is reflected in the structure outlined in Table 1.

As required by Assembly Bill 1105, the staff has also evaluated the option of using a non-profit enterprise as the administrator. Table 2 describes this alternative. There may be advantages to the non-profit approach based on their ability to acquire services and resources if they are exempt from State procurement and civil service processes. This advantage, however, may be offset by the cost and time required to actually establishing or hiring a non-profit. The staff also believes that the State procurement and selection processes need not be a hindrance to effective administration and governance.

III. DISCUSSION OF STAFF PROPOSED OPTION

The selection of the option resulted from an analysis of the key requirements for an effective and efficient administrative structure. The staff proposal includes the California Energy Commission, or a new government entity, in the governance role. It is staff's view that governance of a public goods program must be accomplished by a public agency. We are suggesting the Energy Commission or a new entity, such as an Energy Efficiency Authority. The Authority may be legislatively created and given the power and duty of governing the Public Goods Charge Program. In this case the Authority may be the Energy Commission and staff. However, when acting as the Authority, they may only exercise the discretion given them by the legislation. The legislation may also provide for more creative contracting and procurement processes when the Energy Commission functions as the Authority to enhance the contracting process.

A. Staff Proposal - California Energy Commission or Energy Efficiency Authority Oversees Multiple Administrators

Figure 1 shows the basic structure for the staff proposal. In the following description whenever the Energy Commission is mentioned it includes the possible option of an Energy Efficiency Authority.

A biennial proceeding is used by the Energy Commission (or Authority) to set policy goals and overall program budgets for each targeted market segment based upon feedback from program evaluation staff and program managers. For purposes of this proposal the market sector is divided into Residential, Nonresidential and New Construction segments. Staff also proposes a program manager for Market Assessment and Evaluation. First decision is out in February of year 2001. Program managers develop program designs through a public process with input from Energy Commission staff, evaluators, and the independent panel. Final program plans are filed with the Energy Commission and sent to market evaluation organizations for use in developing Market Assessment and Evaluation plans. Market evaluations are performed on a

biennial basis and sent to the governance organization and program managers. The independent panel acts as an independent check on the governance organization (to avoid program capture by stakeholders). This body develops a biennial evaluation of the entire administrative structure and recommends improvements to the legislature and governance organization.

Figure 1 - Structure and Feedback Channels

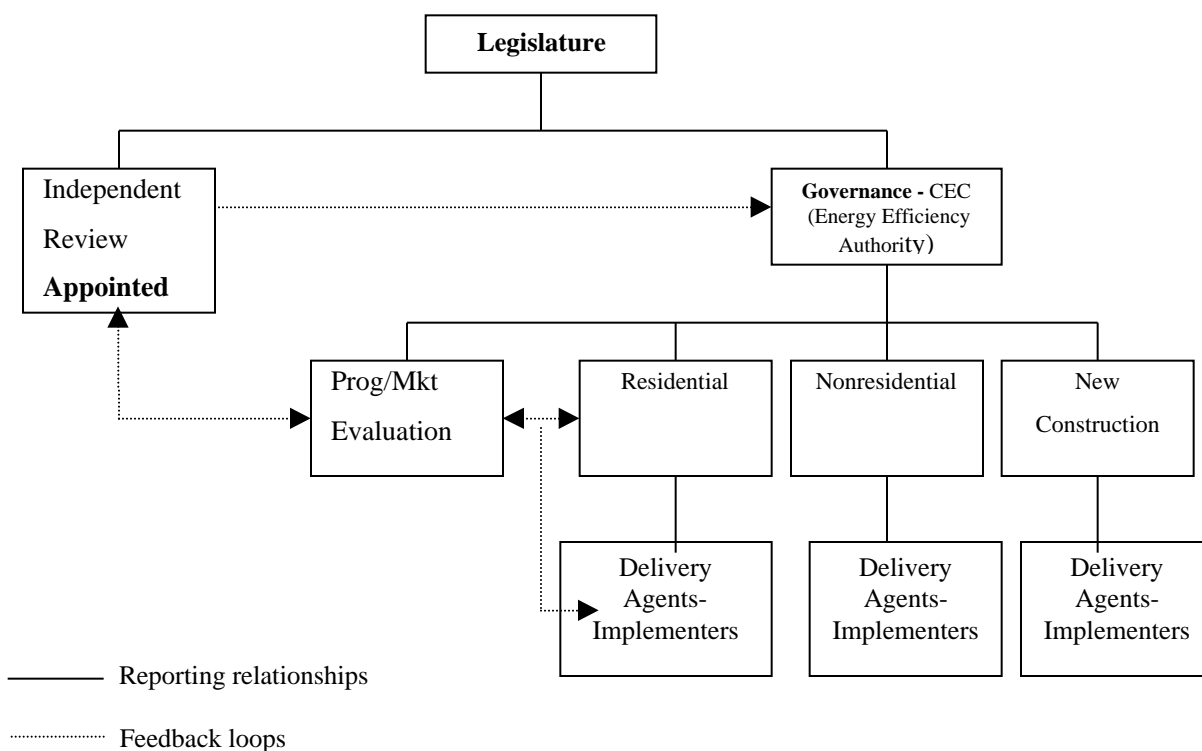


Table1 (below) provides more details on the principal duties for each function and the candidate organizations for each function.

TABLE 1
Functions and Roles
California Energy Commission (CEC) Oversees Multiple Administrators

Function	Lead Organization	Principle Duties	Accountable to Whom	Contract Management/ Dollar flow	
				Budgeting	Procurement
1. Governance	CEC (or Authority)	<input type="checkbox"/> Set state policy goals for programs <input type="checkbox"/> Hire administrators <input type="checkbox"/> Approve Program budgets	<input type="checkbox"/> Legislature <input type="checkbox"/> Independent Review Panel	CEC approves multi-year program budgets (on staggered terms for individual market portfolios)	Authority from legislature to streamline procurement procedures and adopt budgets for each of the five functions except independent review
2. Program Management	Combination of 3-8 for-profit and non-profit organizations—could include: <input type="checkbox"/> Private firms <input type="checkbox"/> Universities <input type="checkbox"/> Local governments <input type="checkbox"/> CEC Staff	<input type="checkbox"/> Propose specific market objectives <input type="checkbox"/> Design portfolio of programs <input type="checkbox"/> Submit program Budgets <input type="checkbox"/> Hire implementors <input type="checkbox"/> Solicit 3 rd party program ideas <input type="checkbox"/> Manage program portfolio and modify program designs based on feedback from functions 4 and 5 and new policy from function 1	<input type="checkbox"/> CEC	Annual Total Program budget sum of 2,3&4 approved by CEC	Expedited state procurement practices
3. Implementation/Delivery	<input type="checkbox"/> Private market actors <input type="checkbox"/> Utilities for limited areas <input type="checkbox"/> Local governments	<input type="checkbox"/> Implement Programs and track program progress	<input type="checkbox"/> Program Managers	Administrator sets budgets and selects contractors as needed	Expedited state procurement practices
4. Program and Market Evaluation	<input type="checkbox"/> Contractors hired by CEC <input type="checkbox"/> CEC staff	<input type="checkbox"/> Evaluate impacts of all programs in markets <input type="checkbox"/> Evaluate effectiveness of portfolios	<input type="checkbox"/> CEC and Independent Panel	Annual budget set by Program Manager and CEC	Expedited state procurement practices
5. Independent Review	<input type="checkbox"/> Private panel composed of stakeholders appointed by CEC and legislature <input type="checkbox"/> DOF (fiscal)	<input type="checkbox"/> Provide Policy and Management Audit of Entire Structure every two years <input type="checkbox"/> Provide fiscal audit/evaluation	<input type="checkbox"/> Legislature works with program and market evaluation organizations	Budget set by CEC	Contractors or staff hired through state procurement

TABLE 2

**California Energy Commission (CEC) Sets Policy and Overall Budget
for Non-Profit Administrator(s)**

Function	Lead Organization	Principle Duties	Accountable to Whom	Contract Management/ Dollar flow	
				Budgeting	Procurement
1. Governance	CEC	<input type="checkbox"/> Set state policy goals for programs <input type="checkbox"/> Approve Program budgets	<input type="checkbox"/> Legislature <input type="checkbox"/> Independent Review Panel	Annual budget approved by Legislature	Authority from Legislature to adopt budgets for each of the five functions except independent review
2. Program Management	Non-profit Organization (s)	<input type="checkbox"/> Design Portfolio of Programs <input type="checkbox"/> Submit Program Budgets <input type="checkbox"/> Modify program designs based on feedback from functions 4 and 5 and new policy from function 1 <input type="checkbox"/> Hire program managers	<input type="checkbox"/> CEC	Annual Total Program budget sum of 2&3 approved by CEC but allocated to programs/markets by non-profit.	Non-profit set up through legislation or by CEC - writes contract with program managers or hires staff to write contracts with delivery agents
3. Implementation/Delivery	Private market actors, and Utility Distribution companies	<input type="checkbox"/> Implement Programs and Track program progress	<input type="checkbox"/> Program Managers	Program manager sets budgets and selects contractors as needed	Exempt from state procurement practices
4. Program and Market Evaluation	Contractors hired by Program managers; Limited role for CEC staff	<input type="checkbox"/> Evaluate impacts of all programs in markets <input type="checkbox"/> Evaluate effectiveness of portfolios	<input type="checkbox"/> Program Managers first, work also with Independent Panel and CEC	Annual budget set by CEC in consultation with program managers; CEC contracts for either single MA&E program manager or multiple firms	Hired by CEC using current contracting processes
5. Independent Review	Private panel composed of public interest reps and stakeholders appointed by CEC and Legislature	<input type="checkbox"/> Provide Policy and Management Audit of Entire Structure every two years	<input type="checkbox"/> Legislature <input type="checkbox"/> Works with program and market evaluation organizations	Budget set by Legislature	Contractors or staff hired through state procurement

Summary of Staff Proposal

The legislature sets broad program goals and overall Public Goods Charge budget in mid-year 2000. Enabling legislation would authorize streamlined state procurement procedures for the Energy Commission or the Authority to hire program managers and program evaluation contractors. The Energy Commission could also assume a limited amount of program management functions in some areas, such as third party proposals or efficiency research and development. The Energy Commission sets initial policy and budgets for each of the functions.

Existing utility administrators and local agencies would have a role in implementation/delivery and/or program evaluation.

Pros and Cons

Advantages

- Utilizes the Energy Commission to provide governance and contract management for program management and evaluation contracts, thereby taking advantage of existing expertise, eliminating delays that would be associated with creating a new organization, and assuring that key program functions are well integrated.
- Multiple administrator-types increase the ability to match administrator experience in specific markets with desired organizational form and market reach.
- Balances pros and cons of private and non-profit administrators.
- Mix of profit and non-profit administrators could bring in more public comment and participation.
- Utilizes private entities primarily for implementation and delivery functions, thereby capturing the efficiencies and effectiveness of the private sector while avoiding any real or perceived conflict of interest that might result if utilities were involved in implementation.
- Allows for the possibility to leverage the utilities' experience, market connections and consumer brand awareness.
- Allows for a blending of expertise and resources of private firms and Energy Commission evaluation staff for market assessment and evaluation.
- Introduces competition among program managers which may result in lower administrative costs.

Disadvantages

- May be more difficult to get for-profit and non-profit administrators to integrate programs because of different financial motives or organizational cultures.

- Could be additional start up costs if both the non-profit and for-profit administrators hired by the new governance structure face different types of learning curves/costs.
- Managing three to eight administrator contracts and performing some program evaluation work may require augmenting Energy Commission staff.
- Some parties perceive that the Energy Commission may not be capable of managing over \$200 million in “program manager” and evaluation contracts using the existing state procurement processes.
- It may be hard to draw the line between Energy Commission staff managing the program managers versus becoming involved in managing the details of the program design and delivery system.